

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Brotherhood Mutual Insurance Company a/s/o the Vietnamese Alliance Church (C & MA)

(b) County of Residence of First Listed Plaintiff Allen  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Angela A. Cronk, Esquire c/o Burns White LLC  
100 Four Falls, Suite 515, 1001 Conshohocken State Road  
West Conshohocken, PA 19428

## DEFENDANTS

Danella Companies, Inc., a Pennsylvania Corporation d/b/a  
Danella Construction Corp.

County of Residence of First Listed Defendant Montgomery  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☒ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                                   | DEF                                   |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4            | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6            | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input checked="" type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. §1332 and 28 U.S.C. §1391

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

## DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

4/13/15

SIGNATURE OF ATTORNEY OF RECORD

Angela A. Cronk

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Brotherhood Mutual Insurance  
a/s/a The Vietnamese Alliance Church

v.

Danella Companies, Inc., a Pennsylvania Corporation  
d/b/a Danella Construction Corporation

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (x)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

<u>4/13/15</u> <b>Date</b>  <u>484-567-5734</u> <b>Telephone</b>	<u>Angela A. Cronk</u> <b>Attorney-at-law</b>  <u>484-567-5701</u> <b>FAX Number</b>	<u>Plaintiff</u> <b>Attorney for</b>  <u>aacronk@burnswhite.com</u> <b>E-Mail Address</b>
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## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 6400 Brotherhood Way, Fort Wayne, IN 46828

Address of Defendant: 2290 Butler Pike, Plymouth Meeting, PA 19462

Place of Accident, Incident or Transaction: 931 East Lycoming Street, Philadelphia, PA

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts

2. ☐ FELA

3. ☐ Jones Act-Personal Injury

4. ☐ Antitrust

5. ☐ Patent

6. ☐ Labor-Management Relations

7. ☐ Civil Rights

8. ☐ Habeas Corpus

9. ☐ Securities Act(s) Cases

10. ☐ Social Security Review Cases

11. ☐ All other Federal Question Cases

(Please specify) \_\_\_\_\_

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts

2. ☐ Airplane Personal Injury

3. ☐ Assault, Defamation

4. ☐ Marine Personal Injury

5. ☐ Motor Vehicle Personal Injury

6. ☐ Other Personal Injury (Please specify)

7. ☐ Products Liability

8. ☐ Products Liability — Asbestos

9. ☒ All other Diversity Cases

(Please specify) property damage

## ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Angela A. Cronk, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 4/13/15

Angela A. Cronk  
Attorney-at-Law

83981

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 4/13/15

Angela A. Cronk  
Attorney-at-Law

83981

Attorney I.D.#

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BROTHERHOOD MUTUAL INSURANCE	:	
COMPANY, a/s/o Vietnamese Alliance	:	
Church (C&MA)	:	
6400 Brotherhood Way	:	Case No.
Fort Wayne, IN 46828	:	
	:	
Plaintiff,	:	
v.	:	
	:	JURY TRIAL DEMANDED
DANELLA COMPANIES, INC., a	:	
Pennsylvania corporation d/b/a DANELLA	:	
CONSTRUCTION CORP.	:	
2290 Butler Pike	:	
Plymouth Meeting, PA 19462	:	
	:	
Defendant.	:	

**COMPLAINT**

Plaintiff, Brotherhood Mutual Insurance Company, as subrogee of the Vietnamese Alliance Church, a Christian and Missionary Alliance Church, by and through its attorneys, Burns White LLC, files the within Complaint against Danella Companies, Inc. d/b/a Danella Construction Corporation ("Danella"), seeking relief pursuant to common law principles of equitable and legal subrogation.

**THE PARTIES**

1. Brotherhood Mutual Insurance Company ("BMIC") is a corporation duly organized and existing under the laws of the State of Indiana, with a principal place of business located at 6400 Brotherhood Way, Fort Wayne, Indiana, 46825.

2. At all times material hereto, the Vietnamese Alliance Church ("Alliance Church") owned the premises located at 931 East Lycoming Street, Philadelphia, PA 19124 (the "Church").

3. Vietnamese Alliance Church was insured through a policy of insurance issued by Plaintiff, Brotherhood Mutual Insurance Company, policy number 37M0294161, which insured it against, *inter alia*, damages to improvements and betterments, personal property, as well as lost income, loss of use and extra expense.

4. Defendant Danella Companies, Inc. is a Pennsylvania corporation d/b/a Danella Construction Corporation, and which provides construction and engineering services to major gas, electric, water and fiber utility companies. Defendant Danella Companies, Inc. ("Danella") maintains its principal place of business at 2290 Butler Pike, Plymouth Meeting, PA 19462.

#### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332, because the dispute is between citizens of different states and the amount of the controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs.

6. Venue is proper pursuant to 28 U.S.C. § 1391, because the Defendant resides within the Eastern District of Pennsylvania and a substantial part of the events or omissions giving rise to the underlying claim occurred within this judicial district.

#### **THE FACTS**

7. In April 2014, Philadelphia Gas Works ("PGW") advised the Alliance Church that new gas meters and service lines needed to be installed on its property, located at 931 East Lycoming Street, Philadelphia, PA 19124 (hereinafter "Property").

8. Philadelphia Gas Works ("PGW") contracted with Danella to install the new gas meters and service lines on the Property.

9. At all times relevant to this cause of action, Danella acted by and through its employees, agents, servants, and workmen, each of whom were acting in the course of their employment and within the scope of their authority, subject to the control and direction, and for the benefit of the Defendant, their principal and employer.

10. On or about April 28, 2014, Danella excavated two trenches, beginning from the Alliance Church building, located at 931 East Lycoming Street, Philadelphia, PA 19124, and extending to the adjoining street, so that the gas lines could be installed.

11. In the course of performing the work that it had contracted to undertake, Danella left an excavation pit that was dug by Danella in such a condition that it negligently blocked drain lines near the Property.

13. On or about April 30, 2014, as a result of those drain lines being blocked, water from the rain storm accumulated at an artificial and accelerated rate, causing flooding of approximately four to six inches of water inside the Alliance Church building located at 931 East Lycoming Street, Philadelphia, PA 19124.

14. As a result of the flooding, the Alliance Church sustained damages to real and personal property, which included the Alliance Church building, in excess of \$120,000.00.

15. The Alliance Church submitted a claim to BMIC under the subject policy for the damage, and in compliance with all the terms and conditions of the subject policy, which BMIC paid. Pursuant to the terms and conditions of the subject policy of insurance, and in accordance with the common law principles of equitable and legal subrogation, BMIC is subrogated to the rights, claims and causes of the Alliance Church against Defendant to the extent of the payments it made in compensation for the aforementioned property damage.

**COUNT I**  
**NEGLIGENCE**

16. BMIC incorporates by reference the allegations contained in Paragraphs 1 through 15 of this Complaint as though each were fully set forth herein.

17. The flooding in the Alliance Church building on or about April 30, 2014, was proximately caused by the negligence, carelessness, negligent acts and/or omissions of Danella in leaving orange safety cones in the excavation pit of the construction area they operated in, at or near the Alliance Church building located at 931 East Lycoming Street, Philadelphia, PA 19124.

18. The orange safety cones that Danella left blocked the drain lines around the Alliance Church building, which created a dangerous and artificial condition.

19. Danella, and/or their employees and/or agents' negligence, carelessness, and/or recklessness directly, proximately and legally caused the Alliance Church damages, consisting of the following:

- a. Flooding throughout the Alliance Church building, resulting in approximately four to six inches of standing water;
- b. Damage to the carpeting;
- c. Damage to the vinyl flooring;
- d. Damage to furniture, office equipment, and personal items throughout the building;
- e. Damage to audiovisual equipment;
- f. Damage to the structure, including walls, baseboards, shoe moldings, and doors.

20. The damages caused by the obstructed drain lines resulted in a loss suffered by the Alliance Church totaling over \$120,000.00.

WHEREFORE, Plaintiff Brotherhood Mutual Insurance Company, as subrogee of the Vietnamese Alliance Church, demands judgment in its favor against Defendant Danella, in an amount to be determined at trial, together with interest, costs of this action and such other relief as may be ordered by the Court.

Respectfully submitted,

BURNS WHITE LLC

BY: Angela A. Cronk  
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John M. Steidle, Esquire (PA ID 84404)  
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